APPENDIX A

VIRGINIA:-

AT A CIRCUIT COURT OF THE CITY OF CHARLOTTESVILLE, ON THE LAW SIDE THEREOF, HELD ON MONDAY, MARCH, 15TH, 1982.

Present:-Honorable Herbert A. PICKFORD, Judge

COMMONWEALTH OF VIRGINIA Plaintiff

V. File No. 82-45 - Contempt

JAMES N. FLEMING Defendant

By virtue of his misbehavior in the presence of the Court in the nature of contemptuous language addressed to the Court during a civil proceeding therein being heard, the defendant, James N. Fleming, is held to be in contempt of court in violation of Section

18.2-456(3) of the Code of Virginia, 1950, as amended, and is summarily sentenced to serve a term of ten (10) days in jail. The defendant having indicated his intention to appeal,the Court does suspend execution of said sentence upon defendant's posting of an appeal bond within thirty (30) days hereof in the amount of $1,000.00 per Section 8.01-676 of the Code of Virginia, 1950, as amended, and timely pursuit of an appeal.

Copies of this order are to be mailed by the Clerk to Richard H. Barrick, Commonwealth's Attorney for the City of Charlottesville, Virginia and to Gerald G. Poindexter, counsel for the defendant.

Enter:

/s/ Herbert A. Pickford

Judge

A Copy, Teste:

Paul C. Garrett, Clerk

/s/ Betty J. Goodwin, Dep. Clerk

APPENDIX B

VIRGINIA:

IN THE CIRCUIT COURT OF THE

CITY OF CHARLOTTESVILLE

MONZELLA G. TARRY,
Plaintiff

V. IN CHANCERY
CASE NO. 4561

JAMES N. FLEMING,
Defendant

ORDER

This matter came on this 15th day of March, 1982 upon a show cause order. The defendant, by counsel, filed a motion to quash the same, which motion, after due consideration, was denied. The defendant, by counsel, thereupon admitted he had not produced his 1980 income tax returns nor paid the attorney fee as ordered by

decree entered in this cause on April 23, 1981. The Court does, therefore, find the defendant to be in contempt per Section 18.2-456(5) of the Code of Virginia, 1950, as amended, and sentences the defendant to serve a term of ten (10) days in jail. The defendant having indicated his intention to appeal, the Court does suspend execution of said sentence upon defendant's posting of an appeal bond within thirty (30) days hereof in the amount of $1,000.00 per Section 8.01-676 of the Code of Virginia, 1950, as amended, and timely pursuit of an appeal. Copies of this order are to be mailed by the Clerk to counsel herein.

ENTER: /s/ Herbert A. Pickford
Judge

DATE: /s/ 3/17/82

A Copy, Teste

Paul C. Garrett, Clerk

/s/ Judith Ann Durham, Dep. Clerk

APPENDIX C

VIRGINIA:

IN THE CIRCUIT COURT OF THE

CITY OF CHARLOTTESVILLE

MONZELLA G. TARRY,
Plaintiff

V. IN CHANCERY
CASE NO. 4561

JAMES N. FLEMING,
Defendant

ORDER

Motion having been filed on behalf of the defendant requesting leave to purge himself of contempt, and a hearing thereon having been held, it appears that the defendant has now complied with an Order of this Court entered on April 23, 1981. The Court being satisfied with said compliance, does hereby ORDER that the Order of March 17,

1982 adjudging the defendant to be in contempt be vacated, and that the Order To Show Cause entered on February 18, 1982 is hereby dismissed.

ENTER: /s/ Herbert A. Pickford
Judge

DATE: /s/ 4/5/82

A Copy, Teste

Paul C. Garrett, Clerk

/s/Judith Ann Durham, Dep. Clerk

APPENDIX D

THE COURT: I take it there hasn't been any compliance with it, the fifty dollars ($50.00) hasn't been paid; and the tax returns haven't been...

MR. POINDEXTER: No sir, because once Mr. Carter won his case it was up to him to bring that to the court's attention and thereafter request whatever it was that he wanted from the court; and contempt, if you are going to attempt to hold somebody in contempt of court there certainly should be at a minimum in a civil contempt case, or in a criminal contempt, that he realizes that he is not in compliance with something that the court has requested

that he do; and if that were the case I think that what I just represented to the court, as an officer of the court, to explain that Mr. Carter and I talked in terms of trying to resolve what it was he wanted and could not resolve it should be taken into consideration; and in fact, viciates any suggestion of contempt on Mr. Fleming's part; and I would never allow him, if I knew what was occurring, to place himself in a position where he would knowingly have been in contempt of court. I could have maneuvered in some fashion, I suppose, to have avoided any such complication.

THE COURT: All right, Sir, There hasn't been compliance, this order has been outstanding for this

period of time. I find Mr. Fleming in contempt and sentence him to ten (10) days in jail. Anything further gentlemen?

MR. POINDEXTER: Could we appeal that, Your Honor?

THE COURT: You sure can.

MR. FLEMING: How much is the appeal bond?

THE COURT: It will be a thousand dollar($1,000.00) appeal bond. Mr. Carter, will you draw the order and the - well, let's see, I will have the Clerk draw the order and then we won't have to worry about circulating it. I set the appeal bond at a thousand dollars ($1,000.00).

MR. POINDEXTER: Your Honor, I am really, I just want to say...

MR. FLEMING: I want to say something to. In the case I filed against Monzella Tarry I put up an accounting. I think the court has been the lowest thing on earth, this court has acted as the lowest thing on earth today.

THE COURT: You are in contempt again, Mr. Fleming. That's another ten (10) days, Mr. Fleming. Contempt of court. Take him over to jail, Mr. Kelso.

MR. POINDEXTER: Judge, does he have a right to post a bond? You are familiar with this man, you have known him most of your adult life. Are you going to give him an opportunity to post a bond?

THE COURT: I have set the bond, he is in the custody of the Sheriff right now.

App. 13
--Hearing adjourned--

APPENDIX E

MR. POINDEXTER: Your Honor, in light of the fact that this defendant obviously has appeared in this courtroom any number of times over the years, both as a witness and as a litigant and as far as I know he has never been threatened with contempt. Is it possible that Your Honor would see fit to suspend all of the sentence and give him a fine or something that I would suggest be more fitting under the circumstances?

THE COURT: Well, if anyone else did what he did they would be in jail, too. I don't care who it may be, so...

MR. POINDEXTER: Yes, sir.

THE COURT: I've done all I

can do.

"MR. POINDEXTER: Yes, sir. The motion in light of the Court's refusal to vacate the violation of 18.2-456.3 I believe the criminal one, Your Honor. We would just argue at this point that in that the Court is offended and possibly rightfully it should be. The Court is offended by Mr. Fleming's conduct as it perceives it on ... to have been on March 15th that ... as a consequence of that it would be a violation of due process even though the Court has certain summary powers obviously, but it would be a violation of due process in a criminal case where there is uncertainty as to what transpired

in here. I have one opinion. Mr. Fleming has another. I'm sure the Court has another. It would seem to be a violation of due process for Your Honor to sit in judgment and we would ask that he be ... the order be vacated to the point where he be cited for contempt and then he be given an opportunity for a trial before someone wh should be unbiased and I mean biased in strictly the legal sense, unbiased, who was not a party to the previous proceedings. And I think that there is law to the effect that should be done in cases such as this. In fact, there was just a case tried in another jurisdiction that was in the paper yesterday in the

Washington Post where a judge, I believe it was a woman judge, cited a lawyer for contemptuous conduct during the trial of a case in her court. And the actual contempt was then heard by another judge and, of course, in a criminal matter, Your Honor, the burden continues and the court has resorted to invocation of the criminal statute. The proof of the offense must run beyond a reasonable doubt. Now, obviously nothing occurred in the courtroom which would have been disruptive and I would call Mr. Carter as a witness to the effect that there was no disruption....

THE COURT: no, there wasn't any disruption, just....

MR. POINDEXTER: ....no outbursts, nothing like that in the courtroom....

THE COURT: ...just the statement that this was the lowest court in the state and it was low. It certainly evidenced a contemptible feeling at that time, so I..."

MR. POINDEXTER: To my recollection was that he said that he had been treated like the lowest thing on earth or something to that effect. I don't know precisely what he said. I'm sure he has another version, but I would disagree .....

APPENDIX F

VIRGINIA:-

AT A CIRCUIT COURT OF THE CITY OF CHARLOTTESVILLE, ON THE LAW SIDE THEREOF, HELD ON THURSDAY, APRIL 1ST, 1982

Present:-Honorable HERBERT A. PICKFORD, Judge

COMMONWEALTH OF VIRGINIA Plaintiff

V. File No. 82-45 - Contempt of Court

JAMES N. FLEMING Defendant

On this the 1st day of April, 1982, came the defendant, James N. Fleming, and his attorney, Gerald G. Poindexter, said defendant having requested an opportunity to apologize for his behavior of March 15, 1982.

And the defendant having so apologized, the Court doth suspend execution of five (5) days of the 10-day sentence imposed upon the defendant March 15, 1982.

The defendant having previously indicated his intention to appeal, the Court orders that the transcripts of the hearing held March 15, 1982 and the transcript of the hearing of this date are made part of record in this case.

The Clerk is directed to forward a certified copy of this order to Richard H. Barrick and to Gerald G. Poindexter.

Enter: /s/Herbert A. Pickford
Judge

A COPY, TESTE:
Paul C. Garrett, Clerk
/s/Ruby G. Walker, Dep. Clerk

APPENDIX G

VIRGINIA:-

AT A CIRCUIT COURT OF
THE CITY OF CHARLOTTESVILLE,
ON THE LAW SIDE THEREOF, HELD
ON WEDNESDAY, APRIL 7TH, 1982

Present:- Honorable HERBERT A. PICKFORD, Judge

COMMONWEALTH OF VIRGINIA
Plaintiff

V. File No. 82-45 - Contempt of Court

JAMES N. FLEMING Defendant

By motion filed April 6, 1982, the defendant again requested the Court to vacate its order of March 15, 1982 wherein the defendant was held in contempt pursuant to the provisions of Virginia Code Section 18.2-456(3).

Deeming said motion to be without merit, it is hereby denied.

A copy of this order is to be mailed to Richard H. Barrick, Esquire and to Gerald G. Poindexter, Esquire.

Enter: /s/ Herbert A. Pickford
Judge

A COPY, Teste

PAUL C. GARRETT, CLERK

/s/Ruby G. Walker, Dep. Clerk

APPENDIX H

VIRGINIA:

IN THE SUPREME COURT OF VIRGINIA
HELD AT THE SUPREME COURT BUILDING
IN THE CITY OF RICHMOND ON THURSDAY
THE 23RD DAY OF SEPTEMBER, 1982.

JAMES N. FLEMING,

Appellant,

against Record No. 821030
Circuit Court No. 82-45

COMMONWEALTH OF VIRGINIA,

Appellee.

From the Circuit Court of the City of Charlottesville

Finding no reversible error in the judgment complained of, the court refuses the petition for appeal filed in the above-styled

case.

A Copy,

Teste:

Allen L. Lucy, Clerk

By: Deputy Clerk

APPENDIX I

VIRGINIA:

IN THE SUPREME COURT OF VIRGINIA HELD AT THE SUPREME COURT BUILDING IN THE CITY OF RICHMOND ON FRIDAY THE 15TH DAY OF OCTOBER, 1982

JAMES N. FLEMING,
Appellant,

against Record No. 821030

Circuit Court No. 82-45

COMMONWEALTH OF VIRGINIA,
Appellee.

Upon a Petition for Rehearing

On consideration of the petition of the appellant to set aside the judgment rendered herein on the

23rd day of September, 1982, and grant a rehearing thereof, the prayer of the said petition is denied.

A Copy,

Teste:

/s/ Allen L. Lucy, Clerk